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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/556,157	04/21/2000	Thomas Leoutsakos	TL-1	6306

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04/10/2002

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EXAMINER

SANTOS, ROBERT G

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 04/10/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/556,157

Applicant(s)

LEOUTSAKOS, THOMAS

Examiner

Robert G. Santos

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-35 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,651,149 to Garman. As concerns claims 1, 11, 21, and 31, Garman '149 shows the claimed limitations of an "apparatus" (30, 30A, 60, 63) for assisting a seated person into adopting a reclined position from a sitting position and supporting a body part or lower limb of the person, comprising: a "rest member" (31, 63) for elevating a body part or lower limb to a level permitting transfer of the seated person to a surface with the body part or lower limb in a reclined position; an "expandable member" (39, 61) associated with the rest member; and "means for expanding" (41, 97) the expandable member upwardly and forwardly to an inclined elevation with the body part or lower limb on the rest member; in addition, Garman '086 discloses the method step of "transferring the elevated body part or lower limb from the rest member" to the elevated surface upon which a person is to recline (see Figures 1, 2, 5-9, & 9A; column 5, lines 42-50; and column 7, lines 5-19). As concerns claim 2, the reference is considered to show the use of an "auxiliary surface" (11, 11A) associated therewith in Figures 1, 2, 8, 9, 9A, & 10; column 4, lines 41-42; and in column 7, lines 18-19. With regards to claims 3, 4, 13, and 14, the examiner respectfully asserts that the apparatus of Garman '149 inherently meets these claimed

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limitations since the device of Garman '149 raises the *entire* body of a user as disclosed in Figures 12 & 13 and in column 7, lines 38-40. As concerns claims 5, 6, and 16, the reference further discloses a condition wherein the rest member is a "platform" (31) which is configured to the body part and the expandable member (39) is associated therewith (see Figures 2, 5, 7-9, 9A, & 10 and column 5, lines 42-47). With regards to claims 7, 8, and 17, the reference is also considered to show a condition wherein the expandable member (39) is a "bellows" adhered to the platform (31) in Figures 2, 5, 7-9, 9A, & 10 and in column 5, lines 42-47. As concerns claims 9, 10, 15, and 18-20, the reference is considered to show conditions wherein the means for expanding (41) includes "means for inflating" the expandable member (39) and further including a "safety guard" (42) therefor, wherein the means for inflating comprises a "valve" (V₁, V₂, V₃, or V_D) and a "compressor" (79) attached to the valve (see also Figures 1, 2, 5-9, 9A, 10-13, 16, 17; column 5, lines 49-50 & 52-54; and column 8, lines 30-40).

As concerns claim 12, the reference is considered to show the step of expanding the rest member "in association with a bed" in column 4, lines 61-63. With regards to claims 22 and 23, the reference also discloses a condition wherein the surface comprises a "bed" (24) including a "mattress" (25) (see Figures 1-3 and 8, 9, 9A, & 10; column 4, line 58; and column 5, line 36). As concerns claim 24, the reference also discloses a condition wherein the "means for transferring" (11) is positioned on a "platform" (31) (see Figures 1, 8, 9, & 9A; column 4, lines 41-42; and column 5, lines 1-5). With regards to claims 25-27, the reference also discloses the use of a "support" (60) for the lower limb, "means for elevating" (41) the support with respect to the platform (31), wherein the means for elevating elevates the support and permits the transfer of the lower limb to the surface (24) (see Figures 9 & 9A and column 7, lines 5-14). As concerns

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claims 28-30, the reference also discloses conditions wherein the support (60) is depressible to the vicinity of the platform (31) after the lower limb has been transferred, and wherein the elevating means (41) is "switch-actuatable" (1-8, 84) and is "selected from the class of manually and automatically powered devices" (see Figures 9, 16, & 17; column 7, lines 8-11; and column 8, lines 26-43 & 62-65).

As concerns claims 32 and 33, the reference is considered to show conditions wherein the "means for elevating" (31, 39, 41, 60) the lower limb adjoins the "elevated surface" (24) and wherein the person is wheeled to the means for elevating the lower limb and the foot of the lower limb is positioned thereon in Figures 1, 2, 8, 9, 9A, 10 & 11 and in column 6, lines 26-29 & 54-55. With regards to claims 34 and 35, the reference also discloses a condition wherein the lower limb is elevated to substantially the level of the elevated surface and transferred to the elevated surface such that the person can adopt a reclined position in Figures 9 & 9A; column 6, lines 26-42 and in column 7, lines 5-14.

Response to Amendment

In response to Applicant's arguments on pages 3 and 4 of his amendment concerning the Carpenter et al. '736 and Garman '086 references, the examiner respectfully agrees and the prior art rejections pertaining thereto have been respectfully withdrawn.

Moreover, in response to Applicant's arguments on page 4 of his amendment concerning the Garman '149 reference, the examiner respectfully maintains that Garman '149 still teaches the use of an expandable member 39 consisting of bellows (as stated in column 5, lines 45-47) and that element 61 as disclosed therein may be considered as an expandable member which

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moves upwardly and forwardly to an inclined elevation and which supports the lower limb of a seated person (please note specifically Figures 9 & 9A and column 7, lines 5-19). Hence, the prior art rejections of claims 1-35 under the Garman '149 reference have been respectfully maintained.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

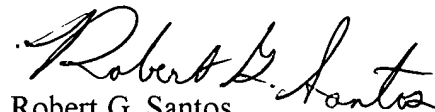
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Blum '909, Cherry '812, Stewart et al. '188, Staczek '414, Murphy '936, Pike '518, and Murphy '910.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on M-Th and second Fridays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (703) 308-2978. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-3687 for regular communications and (703) 308-3687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Robert G. Santos
Primary Examiner
Art Unit 3673

R.S.
April 7, 2002